

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ANGELICA BELEN and WILFREDO
J. BELEN, JR.,

Plaintiffs,

v.

TODD BRUNNER, JOE SEXTON,
GUARDIAN INVESTMENT REALTY,
and TRI CITY NATIONAL BANK,

Defendants.

Case No. 20-CV-519-JPS

ORDER

On March 31, 2020, Plaintiff Angelica Belen (“Belen”) filed a complaint on her and her minor son’s behalf. (Docket #1). On April 21, 2020, Magistrate Judge Nancy Joseph screened the complaint, finding that there is no federal jurisdiction over the claim therein. (Docket #7). Belen was given the opportunity to voluntarily dismiss this action to avoid paying the full filing fee. (*Id.*) However, on May 13, 2020, Belen filed a letter stating that there was federal jurisdiction over her claim, contrary to Magistrate Judge Joseph’s screening order. (Docket #8).

On May 21, 2020, Magistrate Judge Joseph entered a report and recommendation (“R&R”) recommending that Plaintiffs’ complaint be dismissed without prejudice for lack of jurisdiction.¹ (Docket #9). Magistrate Judge Joseph informed Belen that, pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and General Local Rule

¹Because not all parties have had the opportunity to consent to magistrate judge jurisdiction, the case has been reassigned to this Court for consideration of the dismissal R&R. *See Coleman v. Labor & Indus. Review Comm’n*, 860 F.3d 461 (7th Cir. 2017).

72(c), she had fourteen days to file an objection to the R&R. (*Id.* at 2). That deadline has passed and the Court has received no objection from Belen. Having received no objection thereto, and in full agreement with Magistrate Judge Joseph's analysis and conclusion therein, the Court will adopt the R&R and dismiss this action without prejudice.

Accordingly,

IT IS ORDERED that Magistrate Judge Nancy Joseph's Report and Recommendation (Docket #9) be and the same is hereby **ADOPTED**;

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED without prejudice** for lack of jurisdiction;

IT IS FURTHER ORDERED that Plaintiff's motion for leave to proceed without prepaying the filing fee (Docket #2) be and the same is hereby **GRANTED**;

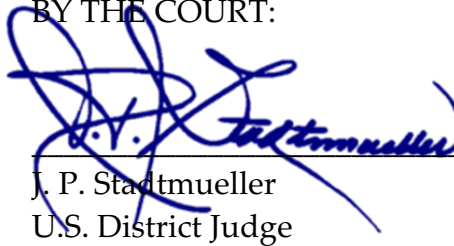
IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall collect from her institution trust account the \$350.00 balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to her trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this case. If Plaintiff is transferred to another county, state, or federal institution, the transferring institution shall forward a copy of this Order along with her remaining balance to the receiving institution; and

IT IS FURTHER ORDERED that a copy of this order be sent to the officer in charge of the agency where Plaintiff is confined.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 24th day of November, 2020.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge